IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE TWENTY THIRD DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

and
THE HON'BLE MR JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL NO : 1725 of 2004

AND

WRIT APPEAL NO: 1762 OF 2004

WRIT APPEAL NO : 1725 of 2004:

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 11/10/2004 in WP NO : 17834 OF 1998 on the file of the High Court.)

Between:

D. Krishna Mohan, S/o. Srinivasaiah, Flat No.102, Shantamma Apartments, C-27, DD Colony, Bagh Amberpet, Hyderabad 500 013.

..... APPELLANT

AND

1 M/s. Hindustan Antibiotics Limited, Pimpri, Pune-411 018, Rep. by its

Personnel Manager P.K. Barpanda S/o. P.N. barpanda, R/o. Pimpri, Pune.
2 The Government of Andhra Pradesh, Rep. by its Secretary, Labour

Department, Secretariat, Hyderabad.
3 The Authority under A.P. shops and Establishments Act, 1988 and Assistant

Commissioner of Labour-1 Circle,Guntur.

.....RESPONDENTS

Counsel for the Appellant:MR.D.V.SITARAMAMURTHY

Counsel for the Respondent No.1: MR.M.PANDURANGA RAO

Counsel for the Respondents 2 and 3: G.P. for Labour

WRIT APPEAL NO : 1762 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 11/10/2004 in WP NO : 17834 OF 1998 on the file of the High Court.)

Between:

M/s.Hindustan Antibiotics Ltd., Pimpri, Pune-411018 rep., by its Personnel Manager, P.K.Barpandi, s/o P.N.Barpanda, r/o Pimpri, Pune.

..... APPELLANT

AND

1 The Government of Andhra Pradesh rep., by its Secretary, Labour Dept.,

Secretariat, Hyderabad.

2 The Authority under A.P.Shops and Establishments Act, 1998 and

Asst.Commissioner of Labour-I Circle, Guntur.

3 D.Krishna Mohan, s/o Srinivasaiah, r/o Flat No.102, Shantamma Apartments,

C.27, DD Colony, Bagh Amberpet, Hyderabad.

.....RESPONDENTS

Counsel for the Appellant:MR.M.PANDURANGA RAO

Counsel for the Respondent Nos.1 and 2: GP FOR LABOUR

Counsel for the Respondent No.3: Mr.D.V.Seetharama Murthy

The Court made the following :

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COMMON JUDGMENT: (Per Hon'ble Smt. Justice T.Meenakumari)

Aggrieved by the order of the learned single Judge dated 11.10.2004 in W.P.No.17834/1998 in dismissing the writ petition and giving liberty to the petitioner to approach the 2nd appellate authority under Section 48(3) of Shops and Establishments Act, the present writ appeals have been filed i.e., W.A.No.1725/2004 has been filed by the 3rd respondent – employee in the writ petition and W.A.No.1762/2004 has been filed by the writ petitioner - Management.

Since both the appeals are filed against the same order, they are being disposed of by this common judgment.

For the sake of convenience, the parties will be referred to as workman and management.

When the workman was working as Travelling Sales Representative of the Management, certain charges were framed for the alleged irregularities in claiming traveling allowance. After enquiry, the workman was removed from service. Against the same, I.D.No.442/1987 was filed and by Award dated 20.08.1992, the Tribunal holding that the workman can avail of the statutory remedy available to him under Shops and Establishments Act, dismissed the dispute. Thereafter the workman filed appeal before the competent

authority under the said Act, and by order, dated 22.04.1998 the said authority directed the Management to reinstate the workman with full back wages and with attendant benefits. Aggrieved by the same, the Management filed W.P.No.17834/1998 and as noted above, the learned single Judge, directed the Management to pursue the remedy of appeal under Section 48(3) of the Act.

Aggrieved by the same, the Management filed W.A.No.1762/2004. Similarly the workman also aggrieved by the order of the learned single Judge in not confirming the order of the competent authority under the Act and permitting the Management to file an appeal, filed the other writ appeal in W.A.No.1725/2004.

At this stage, when the matters have come up for hearing, the learned counsel appearing for workman submitted that as per the liberty given by the leaned single Judge, the management has filed the second appeal before the Second Appellate Authority under Section 48(3) of the A.P. Shops and Establishments Act, 1988 and the Deputy Commissioner of Labour,Guntur in S.A./SR/1/05 (S.A.No.2 of 2005) challenging the orders dated 22.04.1998 passed by the First Appellate Authority under Section 48(1)/Asst.Commissioner of Labour-I, Guntur in Case No.SA 12/1994, which was the subject matter of the Writ Petition. The 2nd appellate authority passed the interim order dated 27.04.2005. The perusal of the said order dated 27.04.2005 shows that the 2nd appellate authority has passed orders in favour of the employee observing as follows:

> *"This authority is of opinion that the respondent employee fairly calculated the back wages amounting to Rs.31,93,660-80 ps."*

Further, in the said order dated 27.04.2005 a direction was also given to the appellant-management to deposit the full back wages with attendant benefits within ten days, failing which the second

appeal filed by them stands automatically rejected. The said order was passed on 27.04.2005.

In view of the above order, dated 27.04.2005 since the management has already availed of the remedy available under the Act, we do not find any cause of action in the writ petition as well as in both the Writ Appeals.

Under the above circumstances, we dismiss both the Writ Appeals, but, however, we make it clear that the order of dismissal in the writ appeals will not come in any way of pursuing the remedies under law, in pursuance of the order passed on 27.04.2005. There shall be no order as to costs.

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Justice T.Meenakumari

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Justice P.Lakshmana Reddy

Dated:23.06.2005,

CCM

To

1 The Personal Manager,M/s. Hindustan Antibiotics Limited, Pimpri,

Pune-

2 The Secretary, Labour Department, Government of Andhra

Pradesh, Secretariat, Hyderabad.

3 The Authority under A.P. shops and Establishments Act, 1988 and

Assistant Commissioner of Labour-1 Circle,Guntur.

4 The G.P. for Labour, High Court of A.P., High Court Buildings,

Hyderabad (OUT)

5 Two CD copies.